An Interagency Success Story

Coast Guard partnerships with Minerals Management Service and Federal Energy Regulatory Commission.

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As a federal agency with wide-ranging and evolving maritime safety and security missions, the U.S. Coast Guard employs a motto, *Semper Paratus* (Always Ready), that is sometimes jokingly referred to as *Semper Gumby*, which roughly translates to "Always Flexible." The Coast Guard's Marine Safety and Security program is no exception, with expanding responsibilities to address traditional and newly emerging maritime safety and security risks within U.S. ports and coastal waters. In this capacity, the Coast Guard has regulatory responsibilities over commercial shipping and the offshore oil and gas industry and has overlapping responsibilities with other federal agencies that also regulate these industries.

The Coast Guard and Minerals Management Service share the statutory responsibility, under the Outer Continental Shelf Lands Act, for the safety and inspection of all Outer Continental Shelf oil and gas facilities. The Coast Guard and Federal Energy Regulatory Commission share statutory responsibility for the safe and secure importation of liquefied natural gas into our nation's ports.

To reduce redundancy and confusion, use federal resources more efficiently and effectively, and reduce the regulatory burden on industry, the Coast Guard has forged very successful partnerships with several federal agencies that have overlapping responsibility. Two excellent examples are the Coast Guard's partnership with the Minerals Management Service (MMS), a bureau of the U.S. Department of Interior, which shares regulatory responsibilities over the offshore oil and gas industry, and the Federal Energy Regulatory Commission (FERC), which shares regulatory responsibilities with regard to importation of liquefied natural gas (LNG) into our nation's ports.

Fixed Platform Inspection Program

The Coast Guard and Minerals Management Service share the statutory responsibility, under the Outer Continental Shelf Lands Act (OCSLA), for the safety and inspection of all Outer Continental Shelf (OCS) oil and gas facilities. On fixed OCS production facilities, of which there are more than 4,000 in the Gulf of Mexico, MMS regulates the structural integrity of the facility in addition to enforcing all regulations pertaining to production and activities such as drilling and workover operations. The Coast Guard regulates marine systems, including lifesaving and firefighting equipment, and workplace safety and health.

Prior to 1988, the Coast Guard conducted inspections on all fixed production facilities to determine if they complied with Coast Guard regulations. The Coast Guard amended its regulations, effective June 27, 1988, to implement a self-inspection program, which requires the owner or operator of a facility to conduct the annual inspection; with the Coast Guard only performing spot-check inspections on random facilities. However, the Coast Guard was only able to conduct annual spot-checks on less than 10 percent (less than 100) of the manned fixed OCS production facilities, due to the limited number of inspectors available who were tasked with other, higher priority marine safety missions.

On the other hand, MMS has continued to inspect all of the fixed OCS production facilities to inspect for violations in its area of responsibility, targeting the drilling and production equipment and activities. In 1998, the Coast Guard and MMS collaborated to review the regulations of both agencies to ensure consistency and to eliminate duplication. As part of this review, the Coast Guard and MMS decided that, because MMS was already inspecting all of the fixed OCS facilities at least once a year, it would benefit both agencies if the MMS was authorized, on behalf of the Coast Guard, to inspect and enforce the Coast Guard's regulations for fixed OCS production facilities. Such an authorization is provided for under the OCSLA, which allows the Coast Guard to use the services and personnel of other federal agencies for the enforcement of its OCS regulations.

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As a result, a joint MMS/Coast Guard rulemaking was initiated in 2001, culminating with a final rule that went into effect on June 7, 2002. The regulation authorizes MMS to conduct inspections on behalf of the Coast Guard on fixed OCS facilities and enforce Coast Guard regulations applicable to those facilities. The Coast Guard inspectors provided classroom and on-the-job training to Minerals Management Service inspectors on how to conduct a fixed Outer Continental Shelf facility inspection for those items regulated by the Coast Guard. The Coast Guard and MMS inspectors have worked closely together to develop this program and have continued to collaborate to ensure it is working successfully.

MOUs/MOAs

The Coast Guard and MMS have a Memorandum of Understanding (MOU) to clarify each agency's areas of responsibility on the OCS, which dates back to the inception of the OCSLA. This MOU has been revised a number of times, with the most recent revision signed on September 30, 2004. The MOU details how the two agencies will work together to regulate the oil and gas activities on the Outer Continental Shelf to keep pace with an industry facing rapidly evolving technologies and engineering designs for drilling and production in deepwater regions, with water depths reaching record levels approaching 10,000 feet. The MOU helps minimize duplication of effort, aids the Minerals Management Service and the Coast Guard in the successful completion of their assigned missions and responsibilities, and clarifies the roles and responsibilities of each agency for the regulated industry.

Increasing interest in building deepwater ports on the Outer Continental Shelf, including LNG import facilities, and additional security requirements created under the Maritime Transportation Security Act of 2002 are among the factors that prompted a significant overhaul of the MOU. At one of the quarterly meetings between senior Coast Guard and MMS management, MMS proposed revising the MOU that was signed in 1998 to encompass a new format.

This new format includes an MOU that serves as an umbrella document and outlines the basic framework of the two agencies' relationship, including legislative and regulatory authorities; areas of technical expertise; data sharing, research and interagency communi-

Minerals Management Service / U.S. Coast Guard Memorandum of Understanding signing ceremony. Standing, from left: Mr. Frank Esposito, U.S. Coast Guard Office of Environmental Law; Lt. Cmdr. Eric Walters, U.S. Coast Guard Office of Compliance; Mr. David M. Moore, Minerals Management Service; Lt. Cmdr. Kelly Post, U.S. Coast Guard Office of Investigations and Analysis; Mr. Jim Magill, U.S. Coast Guard Office of Operating and Environmental Standards; Capt. Dave Scott, U.S. Coast Guard Office of Operating and Environmental Standards; Mr. Brad Laubach, Minerals Management Service. Seated from left: Adm. Thomas Collins, Commandant of U.S. Coast Guard; Ms. Johnnie Burton, Director of Minerals Management Service; Rear Adm. T. H. Gilmour, U.S. Coast Guard Assistant Commandant for Prevention; and Mr. Bud Danenberger, Acting Associate Director of Offshore Minerals Management.

cations; regulatory synchronization; and other typical interagency concerns. The new format will facilitate the development of a number of subject matter-specific Memorandum of Agreements (MOAs) to address such topics as deepwater ports; offshore facility security; accident investigations and incident reporting; civil penalties; and oil spill planning, preparedness, and response. The advantage of this new format is that it allows the promulgation of new policy on specific areas of overlapping jurisdiction as separate MOAs, which will be subordinate documents to the MOU and can be developed and approved in a more expedient manner.

The latest version of the memorandum of understanding and the first MOA (MOA "OCS-01") were signed on September 30, 2004. Under the MOU, the two agencies will continue to foster communication and cooperation; optimize the use of government resources; develop common, compatible regulations and policies; encourage adoption of similar codes and standards; and assist the offshore industry in understanding applicable regulations. The new MOU and MOAs will enhance further cooperation and consistency between the Minerals Management Service and the Coast Guard, ensuring they continue to work successfully together toward the same offshore safety goals.

USCG and FERC Interagency Agreement

The Coast Guard and Federal Energy Regulatory Commission share statutory responsibility for the safe and secure importation of liquefied natural gas into U.S. ports. Under authority of the Magnuson Act and the Ports and Waterways Safety Act, the Coast Guard is responsible for assessing the suitability of a waterway for LNG marine traffic associated with the application for a new facility that will handle liquefied hazardous gas (LHG) or LNG. Once the waterway has been assessed, the cognizant Coast Guard Captain of the Port will issue a Letter of Recommendation (LOR) to the applicant as to the suitability of the waterway. Under authority of the Natural Gas Act and as delegated by the Department of Energy, FERC is responsible for authorizing the siting, construction, and operation of onshore LNG terminals and offshore terminals located within state waters. Once FERC receives an application to build a new LNG terminal, or reactivate or modify an existing one, in accordance with the National Environmental Policy Act (NEPA), it is required to complete an environmental review, which is usually documented in the form of an Environmental Impact Statement (EIS).

In February 2004 the Coast Guard, FERC, and the U.S. Department of Transportation, which regulates pipeline safety, entered into an Interagency Agreement.

This agreement commits each agency to work together to ensure that both land and marine safety and security issues for a proposed shore-side LNG terminal are addressed in a coordinated and comprehensive manner. This agreement also identifies FERC as the lead federal agency for preparing the environmental impact statement, and the Coast Guard acts as a cooperating agency to FERC for the EIS, serving as the subject matter expert for maritime safety and security. The agencies have agreed that maritime safety and security-related information will be addressed by FERC in the EIS process required under NEPA and disclosed to the public to the extent permitted by law.

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Navigation and Vessel Inspection Circular (NVIC) 05-05
The Coast Guard's regulations for the LOR process date from 1988 and clearly did not contemplate the maritime security challenges the United States faces today. While the current LOR regulations contain specific requirements addressing navigational safety and waterway management risk factors, it is clear in the post-September 11, 2001, world that security considerations must also be evaluated to make an adequate assessment of the suitability of a waterway for LNG marine traffic. This information must also be considered by FERC during the facility siting approval process.

A review of security considerations is also necessary to fulfill both agencies' NEPA compliance responsibilities in the environmental impact statement process, since this process allows for consideration of activities that are connected to the principal matter under environmental review, which is the siting of the proposed LNG terminal. In the case of shore-side LNG terminals, relevant connected activities include the LNG vessel transits to and from the LNG terminal and the potential impact of the LNG marine traffic on the safety and security of the port environment.

To address the lack of clear guidance on how to include security considerations when assessing the suitability of a waterway for LNG marine traffic, the Coast Guard collaborated extensively with FERC to develop NVIC 05-05, *Guidance on Assessing the Suitability of a Waterway for Liquefied Natural Gas (LNG) Marine Traffic*. This NVIC provides valuable guidance to the regulated industry on how to conduct a Waterway Suitability Assessment (WSA), taking into account both navigational safety as well as port security risk factors for the proposed LNG marine traffic. It also provides valuable guidance to the Coast Guard on how to review and validate the WSA, report critical information to FERC and collaborate with them on the development of the EIS, and issue the LOR. The NVIC would not be possible without very close cooperation between the Coast Guard and FERC to synchronize the timing of the evaluation and review process between the agencies and develop a framework to communicate critical information between agencies to meet all the necessary regulatory and statutory requirements.

Conclusion
These partnerships have been very beneficial to the Coast Guard, allowing us to streamline our policies and procedures and focus our limited resources where they are needed the most. These partnerships have also been very beneficial to the other federal agencies involved, the regulated industries, and the general public by ensuring more efficient use of taxpayer's money to more effectively enhance maritime safety and security. Furthermore, the success stories mentioned above are just a few examples of the ongoing efforts being made to improve cooperation between the agencies. They have opened the door to interagency communication from the field office level to the highest levels of management within each agency. These partnerships are clearly in the best interest for getting the most "bang for the buck" out of our federal government.

About the authors:
Cmdr. John Cushing was project manager and principal author for NVIC 05-05. He is a 1984 graduate of the U. S. Coast Guard Academy and has two master's degrees from MIT. He has 17 years of marine safety experience with tours at MSO Portland, Ore.; the Marine Safety Center in Washington, D.C.; the Eighth CG District in New Orleans, La.; and is currently assigned to CG Headquarters.

Mr. James Magill is a Naval Architect and Offshore Activities Specialist at U.S. Coast Guard Headquarters, Washington D.C. He has been with the Coast Guard 18 years, involved in writing and revising Coast Guard rules and formulating policy for offshore activities. Prior to that, Mr. Magill worked in the offshore industry in the design and construction of various drilling units. Mr. Magill is a naval architecture graduate of Belfast College of Technology, Northern Ireland. He is a member of the Royal Institution of Naval Architects, the Society of Naval Architects and Marine Engineers, and is a U.K. Professional Engineer. He has written a number of papers and articles on various offshore subjects and has represented the Coast Guard on many industry workshop panels and symposiums.